

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF)
INFORMATION FILED WITH SOUTH CENTRAL)
BELL TELEPHONE COMPANY'S PROPOSED)
CONTRACT WITH ADEPT COMMUNICATIONS FOR)
ISDN-IBS)

CASE NO. 95-085

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("South Central Bell"), filed March 6, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with South Central Bell's special service arrangement contract with Adept Communications on the grounds that disclosure of the information is likely to cause South Central Bell competitive injury, and it appearing to this Commission as follows:

South Central Bell has contracted with Adept Communications to provide Integrated Services Digital Network-Individual Business Service ("ISDN-IBS"). This is a tariffed service that is available on qualified facilities. To provide the service to Adept Communications, the placement of a repeater in the outside plant facility will be required. In support of its application for approval of the contract, South Central Bell has provided cost information which it seeks to protect as confidential.

The information sought to be protected is not known outside South Central Bell and is not disseminated within South Central Bell except to those employees who have a legitimate business need to know and act upon the information. South Central Bell seeks to preserve and protect the confidentiality of the information through all appropriate means, including the maintenance of appropriate security at its offices.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). This section of the statute exempts 12 categories of information. One category, exempted in subparagraph (c)(1) are "records ... generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;" To qualify for the exemption it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

ISDN-IBS service allows business customers to transmit voice and data over ISDN channels through the exchange network. This service is an alternative to other local exchange service

offerings, private line/data services, and dedicated private line networks. South Central Bell's competitors for local exchange service are cellular carriers who may also provide cellular data services and will soon include providers of personal communications services, cable TV providers, and alternate access providers. South Central Bell's competitors for private line/data services and networks are interexchange carriers, resellers, and vendors of microwave, digital radio, fiber, VSAT, and other wireless equipment and services. The information sought to be protected would enable such competitors to determine South Central Bell's cost and contribution from the service which they could use in developing market strategies to the detriment of South Central Bell. Therefore, disclosure of the information is likely to cause South Central Bell competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost support data developed by South Central Bell in connection with its special service contract with Adept Communications, which South Central Bell has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 28th day of March, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director